

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:22-cv-23899-KMM

JORGE ALBERTO BARBERENA LUNA,
and MARIBEL BARBERENA,

Plaintiff,

v.

ATTORNEY GENERAL OF THE
UNITED STATES, *et al.*,

Defendant.

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ORDER ON REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon United State Magistrate Judge Lauren F. Louis's Report and Recommendation ("R&R") (ECF No. 17). On December 21, 2022, this Court referred this case to Magistrate Judge Louis to "take all necessary and proper action as required by law regarding all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters." ECF No. 6. Thereafter, Defendants' filed a Motion to Dismiss ("Motion") (ECF No. 16). Magistrate Judge Louis issued the R&R, recommending that the Motion be **GRANTED**. R&R at 3. No objections to the R&R were filed, and the time to do so has now passed. The matter is now ripe for review. As set forth below, the Court **ADOPTS** the R&R.

The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). The Court "must consider *de novo* any objection to the magistrate judge's recommendation." Fed. R. Crim. P. 59(b)(3). A *de novo* review is therefore required if a party files "a proper, specific objection" to a factual finding contained in the report. *Macort v. Prem, Inc.*, 208 F. App'x 781,

784 (11th Cir. 2006). “It is critical that the objection be sufficiently specific and not a general objection to the report” to warrant *de novo* review. *Id.*

Yet when a party has failed to object or has not properly objected to the magistrate judge’s findings, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Keaton v. United States*, No. 14-21230-CIV, 2015 WL 12780912, at *1 (S.D. Fla. May 4, 2015); *see also Lopez v. Berryhill*, No. 17-CV-24263, 2019 WL 2254704, at *2 (S.D. Fla. Feb. 26, 2019) (stating that a district judge “evaluate[s] portions of the R & R not objected to under a clearly erroneous standard of review” (citing *Davis v. Apfel*, 93 F. Supp. 2d 1313, 1317 (M.D. Fla. 2000))).

In the R&R, Magistrate Judge Louis recommends granting Defendants’ Motion. R&R at 1. Namely, Magistrate Judge Louis states that Plaintiffs filed the instant action seeking an order “commanding Defendants to adjudicate two pending applications . . . filed with the United States Citizenship and Immigration Services.” *Id.* at 2. According to the Motion, the two applications have since been adjudicated. *Id.* Accordingly, Magistrate Judge Louis recommends dismissing Plaintiff’s Amended Complaint for Writ of Mandamus (ECF No. 7) for lack of subject matter jurisdiction because the case is now moot. *Id.* at 2–3. The Court agrees.

Accordingly, UPON CONSIDERATION of the Motion, the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that:

1. Magistrate Judge Louis’s R&R (ECF No. 17) is **ADOPTED**;
2. Plaintiff’s Amended Complaint for Writ of Mandamus (ECF No. 7) is **DISMISSED** without prejudice;

3. The Clerk of Court is instructed to close this case. All pending motions, if any, are
DENIED as moot.

DONE AND ORDERED in Chambers at Miami, Florida, this 25th day of April 2023.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record